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FIRST GENERAL COUNSEL'S REPORT

SENSITIVE

RAD REFERRAL: 02L-07

DATE ACTIVATED: March 6, 2003

EXPIRATION OF STATUTE OF
LIMITATIONS: April 19, 2005

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RESPONDENTS:

Giordano for United States Senate and its treasurer
Former treasurer James S. Paolino in his personal
capacity
Former deputy treasurer Thomas M. Ariola, Jr. in
his personal capacity
Philip Giordano
Salvatore Trovato
Dawn Giordano
Patriot National Bank
Diabes Brothers, Inc.
Diabes Brothers, Inc. II
DiBacco Plumbing & Heating, Inc.
En-Tech Corporation, Inc.
Northeast Cosmetology, Inc.
R.P.L.
The Red Lion, Inc.
Timothy Longino

**RELEVANT STATUTES
AND REGULATIONS:**

2 U.S.C. § 431(8)(A)(i)
2 U.S.C. § 432(i)
2 U.S.C. § 434(a)(1)
2 U.S.C. § 434(b)
2 U.S.C. § 434(b)(3)(A)
2 U.S.C. § 441a(a)
2 U.S.C. § 441a(a)(1)(A)
2 U.S.C. § 441a(a)(3)
2 U.S.C. § 441a(f)
2 U.S.C. § 441b(a)
11 C.F.R. § 100.7(a)(1)(i)(A)
11 C.F.R. § 100.7(a)(1)(i)(D)
11 C.F.R. § 100.7(b)(11)

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11 C.F.R. § 100.7(b)(11)(i)
11 C.F.R. § 100.7(b)(11)(i)(A)(I)
11 C.F.R. § 100.7(b)(11)(i)(B)
11 C.F.R. § 102.7(a)
11 C.F.R. § 102.9(a)
11 C.F.R. § 102.9(d)
11 C.F.R. § 103.3(a)
11 C.F.R. § 103.3(b)
11 C.F.R. § 103.3(b)(1)
11 C.F.R. § 103.3(b)(3)
11 C.F.R. § 104.1(a)
11 C.F.R. § 104.7(a)
11 C.F.R. § 104.7(b)(2)
11 C.F.R. § 104.14
11 C.F.R. § 110.1(b)(3)
11 C.F.R. § 110.1(b)(5)(ii)(B)
11 C.F.R. § 110.1(k)(3)(ii)(B)
11 C.F.R. § 110.10(b)(2)

INTERNAL REPORTS CHECKED: Disclosure Reports

I. INTRODUCTION

This matter was generated by two Reports Analysis Division ("RAD") referrals addressing several areas of possible violations. First, the Giordano for United States Senate Committee ("Committee") accepted a \$300,000 loan from Patriot National Bank ("the Bank") that may not be supported by adequate collateral. The loan transaction raises questions whether a national bank made, and the Committee accepted, a prohibited contribution, and whether Philip Giordano's ("the candidate") wife and his father-in-law made excessive contributions to the candidate in connection with the loan's collateral. Second, the Committee received apparent excessive individual contributions from six other contributors. Third, the Committee received apparent prohibited corporate contributions from seven corporations. Fourth, the Committee failed to provide contributor information for a significant percentage of the contributions

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1 received from individuals during the 2000 election cycle.¹ Finally, the Committee failed to file
2 the 2002 Mid-Year and Year-End Reports.

3 For the reasons discussed below, this Office recommends that the Commission make
4 reason to believe findings against the Committee and its treasurer,² former treasurer James S.
5 Paolino and former deputy treasurer Thomas M. Ariola, Jr. in their personal capacities, the
6 candidate, his wife, his father-in-law, the Bank, and one corporation and an individual who,
7 respectively, may have made corporate and excessive contributions.

8 II. FACTUAL AND LEGAL ANALYSIS

9 A. The Patriot National Bank Loan

10 1. Background

¹ Former treasurer James S. Paolino signed the FEC disclosure reports containing the loan transaction and one disclosure report containing an excessive contribution. See discussion *infra* footnote 2. Former deputy treasurer Thomas M. Ariola, Jr. signed disclosure reports containing apparent excessive contributions from individuals, prohibited corporate contributions, and the reports that lacked the required contributor information. *Id.* Ariola also signed one of the amendments to the 2000 July Quarterly Report that referenced the loan transaction. *Id.*

² The Committee's reason-to-believe notification letter will be served on the candidate, because it appears that the Committee does not have a current treasurer. As a result of a federal criminal investigation, indictment and trial, the candidate was convicted and sentenced in March 2003 to 37 years in federal prison. He was indicted in July 2001, and it appears that the Committee has been inactive since that time. According to the Statements of Organization on file, on February 8, 2000, Paolino was named as treasurer of the Giordano Congressional Exploratory Committee. On March 17, 2000, Michael Blumenthal was named as treasurer of the Giordano for United States Senate Committee ("Committee"). On July 15, 2000, the Statement of Organization for the Committee was amended naming Ariola as Custodian of Records and deputy treasurer (Blumenthal was still listed as treasurer at that point). By letter dated February 15, 2001, Paolino notified the Commission that Ariola was the new treasurer of the Committee. However, by letter dated July 31, 2001, but not filed with the Commission until August 2, 2002, Ariola stated that he was resigning as *deputy* treasurer. Furthermore, there is a letter dated October 28, 2000 from Paolino to the United States Senate Clerk's Office, stating that the 2000 July Quarterly Report marked the end of the Exploratory Committee and the start of the principal campaign committee. It appears from the disclosure reports that Paolino signed all reports filed up to and including the 2000 July Quarterly Report. However, the principal campaign committee's subsequent reports, *i.e.*, the 2000 October Quarterly, Pre-General, Post-General, and Year-End Reports are inconclusive as to the identity of the treasurer. Some of the reports do not contain a signature, but only a typewritten statement: "Thomas M. Ariola, Jr. in absence of treasurer". Others appear to be signed by Ariola either "in absence of treasurer" or "as deputy treasurer". According to the referral, Ariola's counsel communicated to RAD that Ariola was never the Committee's treasurer, and that his signature was signed without his consent to documents stating that he was the treasurer. The disclosure reports do appear to contain his signature and/or name, and absent an investigation this Office cannot (Footnote continues next page.)

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Philip Giordano was a candidate for the office of United States Senator for Connecticut in the 2000 election. The Committee filed a 2000 April Quarterly Report on April 19, 2000, disclosing a \$200,000 loan from the Bank, obtained on February 25, 2000.³ The Schedule C-1 included with the report showed the collateral for this loan as cash on deposit and future contributions to be received by the Committee. Referral Attachment 3. The Schedule C showed both the candidate and his father-in-law, Mr. Trovato, as co-guarantors of the loan.⁴ *Id.* Mr. Trovato was on the Board of Directors of the Bank at this time.⁵

By cover letter signed by the candidate, the Committee, on July 17, 2000, filed an amended 2000 July Quarterly Report, disclosing information about a loan incurred on July 14, 2000 from the Bank in the amount of \$300,000.⁶ Referral Attachment 5. The Schedule C-1 showed the collateral for the loan to be a certificate of deposit valued at \$300,000 and the Schedule C lists the candidate as guaranteeing the entire \$300,000. *Id.* The attached loan

determine whether Ariola's claim is accurate. For purposes of this Report, therefore, we are assuming that Ariola signed the disclosure reports or that his name was entered on the disclosure reports with his consent.

³ According to an undated letter received from Paolino, the Exploratory Committee obtained the original \$200,000 loan. The letter states "in anticipation of the termination of the Exploratory Committee, the Giordano for U.S. Senate Committee has assumed this loan and increased its obligation to a total of \$300,000." For simplicity's sake, this Report will refer to the loan as an obligation of "the Committee."

⁴ The Committee's 2000 July Quarterly Report, filed on July 10, 2000, continued to disclose the \$200,000 loan, but neither the candidate nor his father-in-law were listed as guarantors and the Schedule C-1 was blank. Referral Attachment 4.

⁵ The U.S. Securities and Exchange Commission Form 10-K for Patriot National Bancorp, Inc., a one-bank holding company for Patriot National Bank, lists Mr. Trovato as one of the Directors for Bancorp for the Fiscal Year ending December 31, 2000. *See also* U.S. Securities and Exchange Commission Schedule 14A, Proxy Statement, April 28, 2000 (according to the Proxy Statement, Mr. Trovato has been Vice Chairman of the Board of Directors of Bancorp and Patriot National Bank since 1995, and owns 103,258 shares of stock, or 4.72% of Bancorp's outstanding shares); *see also* David Hammer, *Giordano Campaign Loan Faces Scrutiny*, REPUBLICAN-AMERICAN, August 5, 2001 (reported that Mr. Trovato holds 118,658 shares of stock of Patriot National Bancorp, Inc., equal to 4.89 percent of Bancorp's outstanding shares).

⁶ Although the Schedule C-1 accompanying the report states that the disclosed loan was not restructured, a Schedule C-1 filed with the Committee's Second Amended 2000 July Quarterly Report shows that the \$300,000 loan represented a restructuring of the loan which occurred in February 2000. *See also* footnote 3.

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document describes the collateral as "Patriot National Bank Certificate of Deposit in the Name of Dawn Giordano under Account No.

On August 30, 2000, the Committee filed a second amended 2000 July Quarterly Report, which included a cover letter, a revised Schedule C-1 and copy of a revised loan agreement with the Bank for the \$300,000 loan. Referral Attachment 6. Those documents appear to show that the collateral for the loan was (1) the candidate's one-half interest in a certificate of deposit in the amount of \$300,000 (\$150,000), (2) the candidate's one-half interest in real estate owned by him and his spouse (\$110,000), and possibly (3) the Committee's cash-on-hand or future contributions and receipts.⁷ The certificate of deposit is identified as a "Patriot National Bank Certificate of Deposit in the names of Dawn Giordano & Philip A. Giordano under account the same account number in which the certificate of deposit in the name only of Dawn Giordano had formerly been shown. The real property making up part of the collateral is a Mortgage of Property located at 157 Southwind Road, Waterbury, CT. *Id.* An attached sheet appears to show an opening of an account on July 14, 2000 with an initial deposit of a check for \$300,000, and a withholding statement signed only by Dawn Giordano. Referral Attachment 6, p. 6. On the same sheet, additional information is displayed for what appears to be account number (the number is difficult to read) in the names of the candidate and his wife, showing it to be a "certificate of deposit" type account, with the signature of the candidate followed by the date of and the signature of his wife followed by the date of *Id.*

⁷ The cover letter states that the Committee's cash-on-hand (then \$2,829.82) was also pledged as part of the collateral for the loan; however, the Schedule C-1 filed by the Committee states that future contributions and receipts in the amount of \$50,000 are pledged as collateral for the loan. The revised loan agreement does not mention either the Committee's cash-on-hand or future receipts as collateral for the loan. The Schedule C-1 states that the candidate's one-half value of the certificate of deposit and the real estate is valued at \$250,000. The Schedule C shows the candidate as the sole guarantor for the amount of \$300,000.

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1 The cover letter accompanying the August 30 filing purports to be proffering an
2 "addendum" to the Committee's July 17, 2000 filing as an "attempt[] to correct all previous
3 errors and . . . to conform our report to FEC regulations." According to the cover letter:

4 As you know, the previous report collateralized the loan above mentioned with a
5 Certificate of Deposit of \$300,000 held in the name of Dawn Ann Giordano,
6 Philip A. Giordano's spouse. The Certificate of Deposit was a gift made to Mr.
7 and Mrs. Giordano from Mrs. Giordano's father. Similar gifts were made to all
8 Mrs. Giordano's siblings and their spouses. The Certificate was given jointly in
9 both names. This would allow us to collateralize \$150,000.00 of said loan with
10 Mr. Giordano's half interest in the Certificate.

11
12 Referral Attachment 6, p. 1.

13 With respect to the portion of the collateral composed of the real estate owned by the
14 candidate and his wife, the cover letter states that the "fair market value of said premises is
15 estimated to be \$220,000.00 of which \$110,000.00 of equity is imputed to" the candidate. *Id.*
16 The loan agreement itself does not show a fair market value for the real estate nor are there any
17 accompanying papers documenting a fair market value of \$220,000. The mortgage deed between
18 the Bank and the Giordanos, dated August 15, 2000, states that their arrangement is subject to an
19 encumbrance on the real estate consisting of a "Mortgage to Metro Mortgage Corporation in the
20 original principal amount of \$124,000.00 dated February 16, 1999." Referral Attachment 6, pp.
21 15-25.

22 In response to two Requests for Additional Information ("RFAI") dated September 19,
23 2000, and Second Notices dated October 12, 2000 (Referral Attachments 7-10), the Committee
24 filed amendments to its 2000 April and July Quarterly Reports on November 1, 2000. The cover
25 letter dated October 28, 2000 states that the original \$200,000 loan, due to a misunderstanding on
26 the part of the campaign and the Bank, "was made in violation of FEC rules," but that the "loan

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1 was corrected as to FEC requirements and also increased to an indebtedness of \$300,000.”

2 According to the cover letter, the \$300,000 loan

3 was secured with one half of a certificate of deposit held jointly by Mr. And
4 [sic] Mrs. Giordano, on [sic] half the equity in Mr. and Mrs. Giordano's jointly
5 held home, and cash on deposit in the Senate Committee account. The bank
6 was satisfied that this was adequate collateral for this line of credit. I am under
7 the impression that this also satisfies FEC requirements. The certificate of
8 deposit was originally a family gift given to the Giordano family. The timing of
9 the gift coincided with a financial event with the family. It was not related to
10 the Senate committee[sic] and would have happened regardless of the Senate
11 race.

12
13 Referral Attachment 13.⁸

14
15 On July 3, 2001, RAD sent the Committee an RFAI referencing the amended 2000 July
16 Quarterly Report dated August 21, 2000. Referral Attachment 15. The RFAI questioned
17 whether the candidate's wife had made an excessive contribution in connection with the real
18 estate portion of the collateral and sought an amendment clarifying information pertinent to that
19 part of the loan transaction. *Id.* RAD sent the Committee a Second Notice on July 26, 2001 for
20 failure to respond to the RFAI. Referral Attachment 16. The Committee has never responded to
21 the RFAI.⁹

⁸ The RFAI dated September 19, 2000 inquired about the original \$200,000 loan and asked the Committee to provide the Schedules C and C-1 pertaining to that loan. Referral Attachment 9. On November 27, 2000 the Committee amended its 2000 July Quarterly Report for a fourth time and included the Schedules C and C-1 as requested. Referral Attachment 13.

⁹ One news article published in August 2001 quoted Charles Howell, President and Chief Executive Officer of Patriot National Bank as saying, “[t]he loan was re-paid at maturity [Feb. 24, 2001]. The details regarding the loan were reported to the Federal Elections [sic] Commission.” David Hammer, *Giordano Loan Faces Scrutiny*, REPUBLICAN-AMERICAN, August 5, 2001. The article also reports that although Ariola told the reporter that in July 2001 he planned to file the FEC disclosure reports concerning the loan's repayment, the candidate was arrested in July and federal agents took possession of all the Committee's records at the time of his arrest, preventing Ariola from actually filing the reports concerning the loan's repayment. *See id.* None of the Committee's reports on file with the FEC to date disclose any information about the reported loan's repayment.

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2. Analysis of The Patriot National Bank Loan Transaction¹⁰

The circumstances surrounding the receipt and ownership of the certificate of deposit and the valuation of the candidate's equity in his home, both of which were used to collateralize a \$300,000 loan to the Committee, raise issues as to possible excessive contributions from the candidate's wife and his father-in-law. Contributions from members of a candidate's family are subject to the same limits that apply to any other individuals. *See* S. Conf. Rep. No. 93-1237, at 58 (1974), *reprinted in* 1974 U.S.C.C.A.N. 5587, 5627 ("[T]he immediate family of any candidate shall be subject to the contribution limitations established by this legislation.....[A]n immediate family member would be permitted merely to make contributions to the candidate in amounts not greater than \$1,000 for each election involved."); *see also Buckley v. Valeo*, 424 U.S. 1, 53 n.59 (1976) (upholding application of contribution limitations to family members). The Act prohibits any person from making contributions "to any candidate and his authorized political committee with respect to any election for Federal office which, in the aggregate, exceeds \$1,000." 2 U.S.C. § 441a(a)(1)(A). The Act also prohibits any individual from making "contributions aggregating more than \$25,000 in any calendar year." 2 U.S.C. § 441a(a)(3).

Giordano was a candidate by July 14, 2000 when his father-in-law purportedly gifted the \$300,000 certificate of deposit.¹¹ As noted *supra*, the Committee asserted that it realized that the original \$200,000 loan, for which the candidate's father-in-law, Mr. Trovato, was a guarantor,

¹⁰ All of the facts in this matter occurred prior to the effective date of the Bipartisan Campaign Reform Act of 2002 ("BCRA"), Pub. L. 107-155, 116 Stat. 81 (2002). Accordingly, unless specifically noted to the contrary, all citations to the Act herein are as it read prior to the effective date of BCRA and all citations to the Commission's regulations herein are to the 2002 edition of Title 11, Code of Federal Regulations, which was published prior to the Commission's promulgation of any regulations under BCRA.

¹¹ Giordano's Committee reported \$55,900 in contributions and \$197,900 in expenditures on its 2000 April Quarterly Report. These figures are well in excess of the threshold amount of \$5,000 in aggregate contributions or aggregate expenditures required to meet the definition of the term "candidate" under 2 U.S.C. § 431(2).

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1 “violated FEC rules” (presumably because Mr. Trovato’s guarantee would constitute an
2 excessive contribution on its face pursuant to 2 U.S.C. §§ 441a(a)(1)(a) and (a)(3) and
3 11 C.F.R. §§ 110.1(b) and 110.5(b)). The timing of the transmission of the certificate of deposit
4 (or the funds to purchase it) to be used as collateral for the restructured \$300,000 loan indicates
5 that it may have been an attempt to accomplish a similar result through alternative means.
6 Moreover, the conflicting information concerning whether the certificate of deposit was in the
7 name of the candidate’s wife alone or in both names, the confusing account opening information,
8 and the discrepancies whether the Committee’s cash-on-hand or future receipts were part of the
9 collateral also bear further scrutiny. Among the possible circumstances, if the candidate’s father-
10 in-law gifted the certificate of deposit to both the candidate and his wife, that gift might
11 constitute an excessive contribution by him to the candidate.¹² If, on the other hand, the
12 candidate’s father-in-law gave his daughter \$300,000, and she in turn used that money to
13 purchase a \$300,000 certificate of deposit for herself and the candidate, that might result in an
14 excessive contribution by the candidate’s wife to the candidate.

15 With respect to the real estate portion of the collateral, the revised loan agreement showed
16 a \$124,000 preexisting mortgage on the property in 1999. Although the principal balance of the
17 mortgage likely had fallen slightly by 2000, for purposes of this analysis, and assuming that
18 \$220,000 was indeed the property’s fair market value, the candidate’s equity in the home appears
19 to have been approximately one-half of \$220,000 (FMV) minus \$124,000 (the amount of the
20 mortgage), or \$48,000, rather than the \$110,000 stated as collateral for the loan. There is a

¹² Candidates for federal office may make unlimited expenditures from personal funds, including from gifts of a personal nature which had been customarily received prior to candidacy. See 11 C.F.R. § 110.10(b)(2). As yet, we have no information that the certificate of deposit fits into this category.

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1 possibility, if the preexisting mortgage had been considerably paid down by 2000, that the
2 candidate and his wife together had enough equity in the home to support the collateral; but by
3 needing more than the candidate's one-half interest for this purpose, the candidate's wife may
4 have made an excessive contribution. While a candidate may obtain a loan on which his or her
5 spouse's signature is required when jointly owned assets are used as collateral for the loan, the
6 spouse is not considered a contributor to the candidate's campaign if the value of the candidate's
7 share of the property used as collateral equals or exceeds the amount of the loan which is used for
8 the candidate's campaign. 11 C.F.R. § 100.7(a)(1)(i)(D).

9 If the candidate's wife or father-in-law made excessive contributions to the candidate or
10 the Committee, they may have violated 2 U.S.C. §§ 441a(a) (1) and (3), and the Committee may
11 have violated 2 U.S.C. § 441a(f) for accepting excessive contributions. Any candidate who
12 receives a contribution in connection with his or her campaign shall be considered as having
13 received that contribution as an agent of his or her authorized committee. *See* 2 U.S.C.
14 § 432(e)(2).

15 The available facts also suggest that the Bank may have made a prohibited contribution to
16 the Committee. The Act prohibits national banks from making contributions in connection with
17 any election and prohibits any candidate, political committee, or other person knowingly to
18 accept or receive any such contributions. 2 U.S.C. § 441b(a). A loan by a national bank is not a
19 contribution by the lending institution if it is made in accordance with applicable banking laws
20 and regulations and is made in the ordinary course of business. 11 C.F.R. § 100.7(b)(11). A loan
21 will be deemed to be made in the ordinary course of business if, among other things, it is made
22 on a basis which assures repayment. *Id.* A loan shall be considered "made on a basis which
23 assures repayment" if the lending institution making the loan has perfected a security interest in

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1 collateral owned by the candidate or political committee receiving the loan, the fair market value
2 of the collateral is equal to or greater than the loan amount and any senior liens as determined on
3 the date of the loan, and the candidate or political committee provide documentation to show that
4 the lending institution has a perfected security interest in the collateral. 11 C.F.R.
5 § 100.7(b)(11)(i)(A)(I).

6 Even if there were no issues surrounding the candidate's share of the certificate of deposit
7 and the real estate purportedly collateralizing \$150,000 and \$110,000, respectively, of the
8 \$300,000 loan from the Bank, the collateral listed in the loan agreement falls short by
9 approximately \$40,000. Moreover, it appears from the loan documents that the Bank knew of
10 the previous mortgage on the real estate, and took its secured interest subject to it, reducing even
11 further the known value of the candidate's equity in the property. Based on the candidate's
12 father-in-law's position as a member of the Bank's Board, questions also arise concerning his
13 possible participation in, or influence over, the granting of a possible substandard loan. If the
14 loan was under-collateralized, the Bank may have made, and the Committee may have accepted,
15 a contribution prohibited by 2 U.S.C. § 441b(a).

16 Based on the above, this Office recommends that the Commission find reason to believe
17 that the Giordano for United States Senate Committee and its treasurer, and Philip Giordano
18 violated 2 U.S.C. §§ 441a(f) and 441b(a); that Patriot National Bank violated 2 U.S.C. § 441b(a);
19 and that Dawn Giordano and Salvatore Trovato violated 2 U.S.C. §§ 441a(a)(1)(A) and
20 441a(a)(3).¹³

¹³ During the investigation, staff will evaluate whether there is a basis to recommend reason to believe regarding any of the Bank's officers and directors, including Mr. Trovato, for consenting to a prohibited contribution. See 2 U.S.C. § 441b(a).

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3. Treasurer's Responsibilities in Connection with the Prohibited Bank Loan and Excessive Individual Contributions from Family Members

A treasurer is responsible for examining all contributions received for evidence of illegality and for ascertaining when contributions received, when aggregated with other contributions from the same contributor, exceed the contribution limits of the Act and 11 C.F.R. § 110 of the Commission regulations. 11 C.F.R. § 103.3(b). If a contribution presents a genuine issue as to whether it was made from a prohibited source, exceeds the contribution limits on its face or when aggregated with other contributions from the same individual, or if a treasurer later discovers that a contribution is illegal based on new evidence not available at the time of receipt or deposit, a treasurer must follow the procedures set forth at 11 C.F.R. § 103.3(b). *Id.*

Each treasurer of a political committee shall file reports of receipts and disbursements in accordance with the provisions of 2 U.S.C. § 434. *See* 2 U.S.C. § 434(a)(1) and 11 C.F.R. § 104.1(a). Every political committee shall have a treasurer and may designate, on the committee's Statement of Organization, an assistant treasurer who shall assume the duties and responsibilities of the treasurer in the event of a temporary or permanent vacancy in the office or in the event the treasurer is unavailable. 11 C.F.R. § 102.7(a). Each treasurer of a political committee, and any other person required to file any report or statement under the Commission's regulations and under the Act, shall be personally responsible for the timely and complete filing of the report or statement and for the accuracy of any information or statement contained in it. *See* 11 C.F.R. § 104.14(d).

Former treasurer Paolino signed, as treasurer, the disclosure reports referencing the loan transaction discussed *supra*, to wit: the 2000 April Quarterly Report and its amendments, as well as the 2000 July Quarterly Report and its amendments (except for the third amendment to the

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1 2000 July Quarterly Report which former deputy treasurer Ariola signed). These reports
2 contained an apparent prohibited contribution from a national bank, and apparent individual
3 excessive contributions from either the candidate's wife or father-in-law. By signing these
4 disclosure reports, Paolino was responsible for detecting the apparent illegalities contained
5 therein. 11 C.F.R. §§ 103.3(b) and 104.14(d). There is no evidence that Paolino refunded or
6 took the appropriate steps to remedy the apparent prohibited bank contribution or the excessive
7 individual contributions in accordance with 11 C.F.R. § 103.3(b). As such, he failed to fulfill his
8 responsibilities under the Act and the Commission's regulations, and is personally liable for such
9 failure. *See id.*

10 Therefore, this Office recommends that the Commission find reason to believe that
11 former treasurer James S. Paolino violated 2 U.S.C. §§ 441a(f) and 441b(a) in his personal
12 capacity.

13 As discussed *supra*, Ariola signed the third amendment to the 2000 July Quarterly Report
14 that contained the apparent prohibited bank contribution and apparent excessive individual
15 contributions from either the candidate's wife or the father-in-law. By signing the amendment to
16 the disclosure report in the place of a treasurer he was responsible for detecting the apparent
17 illegalities contained in said reports. *See* 11 C.F.R. §§ 103.3(b), 102.7(a) and 104.14(d); *see also*
18 discussion *supra* footnote 2. There is no evidence that Ariola refunded or took the appropriate
19 steps to remedy the apparent prohibited bank contribution or the excessive individual
20 contributions in accordance with 11 C.F.R. § 103.3(b). As such, he failed to fulfill his
21 responsibilities under the Act and the Commission's regulations, and is personally liable for such
22 failure. *See id.*

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Therefore, this Office recommends that the Commission find reason to believe that former deputy treasurer Thomas M. Ariola, Jr. violated 2 U.S.C. §§ 441a(f) and 441b(a) in his personal capacity.

B. Other Possible Excessive Contributions¹⁴

A review of the Committee's disclosure reports shows that the Committee received, and has not refunded, reattributed or redesignated excessive individual contributions totaling \$26,300 as follows¹⁵:

CONTRIBUTOR	CONTRIBUTION AMOUNT	DATE	ELECTION DESIGNATION	REPORT	EXCESSIVE AMOUNT
Allocco, Elizabeth	\$1,000	9/15/00	G	Q3	

¹⁴ According to the referral, in January 2002, RAD determined that the Committee had not received the RFAIs for the 2000 October Quarterly Report (inquiring into excessive and corporate contributions), the 2000 12-Day Pre-General Report (inquiring into lack of complete contributor identification information and setting forth a "best efforts" explanation), and the 2000 30-Day Post-General Report (inquiring into excessive and corporate contributions). Referral Attachments 17 - 22 The Committee had closed its post office box in 2001 without notifying the FEC of a forwarding address. Further, the letters were not returned by the Post Office until several months later due to delays with the mail stemming from the anthrax and irradiation situation occurring at the time. The RAD analyst contacted Ariola's attorney, Mr. William Brown, to arrange for mailing of the RFAIs in question, and the letters were mailed on January 14, 2002. Referral Attachments 26 - 27. A month later the RAD analyst made an unsuccessful attempt to contact Paolino about these three RFAIs; however, Paolino was no longer at the number he last supplied to the FEC. The analyst then contacted Paolino's mother, who refused to provide a contact number for her son or to take a message for him. Referral Attachment 28. In April 2002, RAD contacted Mr. Brown a second time, and was informed by him that he still had not received copies of the three RFAIs. Referral Attachment 29. The RAD analyst faxed copies of the three RFAI's to Mr. Brown, and requested that he review them for compliance. *See id.* Mr. Brown stated that the FBI was still in possession of all Committee files with no indication when they would be returned, and therefore, that no response to the three RFAIs would be made. *See id.* In October 2002, a paralegal for Mr. Brown contacted the RAD analyst and informed him that the Committee had received the RFAI for the 2001 Mid-Year Report, and that it would be filing an amended 2001 Mid-Year Report in response to the RFAI. Referral Attachment 31. The analyst asked the paralegal whether the treasurer or his attorney were intending to amend the reports in connection with the three outstanding RFAIs. *See id.* The next day the paralegal informed the RAD analyst that no corrections were made to the reports referenced in the three RFAIs in question, due to the FBI and IRS still being in possession of all Committee files, disks and related material, with no indication as to when they would be returned, and therefore, no corrections to the reports could be made. Referral Attachment 32.

¹⁵ These apparent excessive contributions appeared on the Committee's 2000 July and October Quarterly and 30-Day Post-General Reports. RAD sent RFAIs on July 3, 2001 and July 17, 2001 and Second Notices on July 26, 2001 and August 9, 2001. The Committee's only response to these RFAIs was to reattribute one excessive contribution in the amount of \$1,000 to the contributor's spouse (that contribution was cured, and thus is not listed here) Referral Attachments 17-18, 20-21, and 23.

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First General Counsel's Report

Allocco, Elizabeth ¹⁶	\$1,000	9/15/00	G	Q3	\$1,000
Capelletti, Joann	\$1,000	6/28/00	G	Q2	
Capelletti, Joann	\$250	10/18/00	Not designated	30G	\$250
Decaro, Angelo ¹⁷	\$2,000	10/03/00	Not designated	30G	\$1,000
Longino, Timothy	\$1,800	10/30/00	Not designated	30G	
Longino, Timothy ¹⁸	\$22,200	10/30/00	Not designated	30G	\$22,000
Paolino, James	\$1,000	5/25/00	G	Q2	
Paolino, James	\$1,000	6/28/00	G	Q2	\$1,000
Pinto, Paul	\$1,000	10/27/00	Not designated	30G	
Pinto, Paul	\$250	4/12/00	G	Q1	\$250

In accordance with the Commission's findings on March 18, 2003 in MUR 5356 (Bob Franks for U.S. Senate, Inc.), this Office is naming as respondents only those individual contributors who, after applying the new rules for presumptive redesignation and reattribution of excessive contributions

¹⁹ In this matter,

¹⁶ The October Quarterly Report discloses a \$1,000 contribution from Elizabeth Allocco on September 15, 2003 and a \$2,000 contribution from Michael and Elizabeth Allocco on September 15, 2003. Applying the reattribution rules, we are attributing \$1,000 of the \$2,000 contribution to Elizabeth Allocco.

¹⁷ According to the U.S. Securities and Exchange Commission Form 10-K filing for Patriot National Bancorp, Inc., Mr. DeCaro was the President, Chief Executive Officer, and Director of Bancorp for the Fiscal Year ending December 31, 2000.

¹⁸ In 2000, Timothy A. Longino was the Committee's Campaign Chairman. See FEC disclosure reports; see also David Hammer, *Giordano Campaign Loan Faces Scrutiny*, REPUBLICAN-AMERICAN, August 5, 2001.

¹⁹ Under the new rules for presumptive redesignation and reattribution that became effective January 1, 2003, political committees will be permitted to presumptively redesignate for another election in the same election cycle contributions that would otherwise be excessive without obtaining a written redesignation from the contributor if: (1) the contribution was not designated in writing by the contributor for a particular election; and (2) within 60 days after the contribution is received, the committee notifies the contributor of the redesignation and offers a refund. 11 C.F.R. § 110.1(b)(5)(ii)(B). Political committees will also be permitted to presumptively reattribute the excessive portion of a contribution to any one or more persons whose name is imprinted on the check or other written financial instrument without obtaining a written reattribution from the contributors so long as the committee, within 60 days, notifies all contributors of the reattribution and offers a refund. 11 C.F.R. § 110.1(k)(3)(ii)(B).

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1 five of the contributors contributed two checks each to the Committee, and one contributor
2 contributed one check. Of those 11 checks, four of them were received before the primary
3 election.²⁰ The remainder of the checks were received after the primary but before the general
4 election.²¹ Applying the new rules for presumptive redesignation, the four checks which were
5 received prior to the primary election could be redesignated to that election. With regard to the
6 remaining checks received after the primary, but before the general election, the excessive
7 portion of the contribution may be redesignated to the primary election to the extent there were
8 net debts outstanding from such election. *See* 11 C.F.R. § 110.1(b)(3).

9 In this matter, the Committee reported \$329,536 in net debts outstanding in its 2000
10 October Quarterly Report. Therefore, the excessive portion of those contributions could be
11 presumptively redesignated to the primary election. *See id.* Even without presumptive
12 redesignations, none of these five contributors--Elizabeth Allocco, Joan Capelletti, Angelo
13 Decaro, James Paolino and Paul Pinto . Therefore,

²⁰ In 2000, Connecticut's Senatorial primary election was held on September 12, 2000, and the general election was held on November 7, 2000.

²¹ MUR 5356 involved an audit of the Bob Franks for U.S. Senate Committee, and the contributors' checks were available for inspection while doing the analysis. In this matter, we do not have copies of the individual contributor checks. Therefore, at this point, it is impossible to tell whether any of these contributions could be reattributed (except for the \$2,000 contribution from Michael and Elizabeth Allocco; when we apply the reattribution rules to that contribution, Elizabeth Allocco still contributed \$1,000 in excess to the general election). We have looked at the disclosure reports to see if any of these checks could be redesignated. According to the disclosure reports, 6 of the 11 contributor checks were designated for the general election, and the remainder were not designated. With regard to the six contributor checks designated for the general election, because we don't have copies of the individual contributor checks we cannot tell if the contributor in fact designated in writing his or her contribution to a particular election, or if the Committee, on its own discretion, designated those six contributions to the general election without an actual written designation from the contributor. For purposes of this analysis, we are proceeding on the assumption that the six contributions at issue were not designated in writing for a particular election and are applying the new rules for presumptive redesignation. Even in the event that the six contributions were in fact designated in writing for a particular election, and the new rules for presumptive redesignation did not apply, as is discussed in more detail later in this report, the outcome of our analysis would still be the same because none of the contributors (except Timothy Longino) contributed more than twice the permissible limit.

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1 this Office is not recommending that any of them be generated as respondents. The Committee
2 has nonetheless accepted excessive contributions from these contributors, and therefore, we
3 recommend a reason-to-believe finding against the Committee. The sixth contributor, Timothy
4 Longino, after applying the new rules for presumptive redesignation, contributed \$22,000

5 There is no information showing that the Committee
6 refunded any portion of Mr. Longino's excessive contribution. Therefore, this Office
7 recommends that the Commission find reason to believe that Timothy Longino violated 2 U.S.C.
8 § 441a(a)(1)(A). This Office also recommends that the Commission find reason to believe that
9 the Giordano for United States Senate Committee and its treasurer violated 2 U.S.C. § 441a(f).

10 1. Treasurer's Responsibilities in Connection with the Individual Excessive
11 Contributions
12

13 As discussed *supra* in Section II.A.3 of this Report, the treasurer shall be responsible for
14 ascertaining whether contributions received, when aggregated with other contributions from the
15 same contributor, exceed the contribution limitations of 11 C.F.R. § 110.1. See 11 C.F.R.
16 § 103.3(b). If a contribution presents a genuine issue as to whether it exceeds the contribution
17 limits on its face or when aggregated with other contributions from the same individual, or if a
18 treasurer later discovers that a contribution is illegal based on new evidence not available at the
19 time of receipt or deposit, a treasurer must follow the procedures set forth at 11 C.F.R.
20 § 103.3(b), which include either refunding the contribution to the contributor, or requesting either
21 a redesignation or reattribution of the contribution from the contributor in accordance with 11
22 C.F.R. § 110.1 as appropriate. See *id.*

23 In place of a treasurer, Ariola signed the 2000 October Quarterly and 30-Day Post-
24 General Reports which contained apparent excessive individual contributions. See discussion

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1 *supra* footnote 2. By signing the disclosure reports, Ariola was responsible for detecting the
2 apparent illegalities contained therein. *See* 11 C.F.R. §§ 103.3(b), 102.7(a), 104.14(d), and
3 110.1; *see also* discussion *supra* Section II.A.3. There is no evidence that Ariola refunded,
4 reattributed or redesignated any of these excessive individual contributions in accordance with 11
5 C.F.R. § 110.1. As such, he failed to fulfill his responsibilities under the Act and the
6 Commission's regulations, and is personally liable for such failure. *See id.*

7 Therefore, this Office further recommends that the Commission find reason to believe
8 that former deputy treasurer Thomas M. Ariola, Jr. violated 2 U.S.C. § 441a(f) in his personal
9 capacity.

10 Similarly, Paolino signed as treasurer the 2000 July Quarterly Report that contained an
11 apparent excessive contribution. By signing said disclosure report he was responsible for
12 detecting the apparent excessive contribution contained therein. 11 C.F.R. §§ 103.3(b) and
13 110.1. By failing to refund the contribution to the contributor, or to request a reattribution or
14 redesignation of said contribution from the contributor, he failed to fulfill his responsibilities
15 under the Act and the Commission's regulations, and is personally liable for such failure. *See id.*

16 Therefore, this Office recommends that the Commission find reason to believe that
17 former treasurer James S. Paolino violated 2 U.S.C. § 441a(f) in his personal capacity.

18 C. Corporate Contributions

19 The Committee received and deposited what appear to be seven corporate contributions
20 totaling \$6,750 as follows²²:

²² RAD sent RFAs concerning the apparent prohibited corporate contributions on July 3, 2001 (referencing the 2000 October Quarterly Report) and July 17, 2001 (referencing the 2000 30-Day Post-General Report) and Second Notices on July 26, 2001 and August 9, 2001, respectively. The Committee did not respond.

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CORPORATION'S NAME	AMOUNT OF CONTRIBUTION	DATE
Diabes Brothers, Inc.	\$1,000	10/27/00
Diabes Brothers, Inc. II	\$1,000	10/27/00
DiBacco Plumbing & Heating, Inc.	\$500	10/7/00
En-Tech Corporation	\$2,500	10/14/00
Northeast Cosmetology, Inc.	\$500	10/1/00
R.P.L.	\$1,000	10/10/00
The Red Lion, Inc.	\$250	10/4/00

Pursuant to 2 U.S.C. § 441b(a), it is unlawful for corporations to make a contribution in connection with any election for Federal office, "or for any candidate, political committee, or other person knowingly to accept or receive any contribution prohibited by this section." It does not appear from the Committee's disclosure reports that the Committee has refunded any of the corporate contributions listed above. Therefore, this Office recommends that the Commission find reason to believe that the Giordano for United States Senate Committee and its treasurer violated 2 U.S.C. § 441b(a).

This Office also recommends that the Commission find reason to believe that En-Tech Corporation, which appears to have made a \$2,500 contribution to the Committee, violated 2 U.S.C. § 441b(a)

Accordingly, this Office recommends that the Commission find reason to

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1 believe that Diabes Brothers, Inc., Diabes Brothers, Inc. II, DiBacco Plumbing & Heating, Inc.,
2 Northeast Cosmetology, Inc., R.P.L., and The Red Lion, Inc. each violated 2 U.S.C. § 441b(a),
3 send admonishment letters, and close the file as to each of them.

4 1. Treasurer's Responsibilities in Connection with the Prohibited Corporate
5 Contributions
6

7 As discussed in *supra* in Section II.A.3 of this Report, a treasurer is responsible for
8 examining all contributions received for evidence of illegality. 11 C.F.R. § 103.3(b). If a
9 contribution presents a genuine issue as to whether it was made from a prohibited source, or if a
10 treasurer later discovers that a contribution is illegal based on new evidence not available at the
11 time of receipt or deposit, a treasurer must follow the procedures set forth at 11 C.F.R.
12 § 103.3(b). Ariola signed the disclosure reports which contained these prohibited corporate
13 contributions, to wit: the 2000 October Quarterly and the 30-Day Post-General Reports. By
14 signing these reports in place of a treasurer he was responsible for detecting the apparent
15 prohibited corporate contributions contained in said reports. *See id*; *see also* 11 C.F.R. §§ 102.7
16 and 104.14(d); *see also* discussion *supra* footnote 2. There is no evidence that Ariola refunded
17 the apparent prohibited corporate contributions in accordance with the procedures set forth in 11
18 C.F.R. § 103.3(b). As such, he failed to fulfill his responsibilities under the Act and the
19 Commission's regulations, and is personally liable for such failure. *See id*.

20 Therefore, this Office recommends that the Commission find reason to believe that
21 former deputy treasurer Thomas M. Ariola, Jr. violated 2 U.S.C. § 441b(a) in his personal
22 capacity.

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D. Failure to Provide Contributor Information

A review of the Committee's disclosure reports shows that the Committee failed to provide some or all of the required contributor information, including addresses, occupations, employers and dates, for a total of 763 of 887, or approximately 86%, of the total number of itemized contributions from individuals for certain reports filed in the 2000 election cycle. The 2000 April and July Quarterly Reports provided the required contributor information. However, beginning with the 2000 October Quarterly Report, the Committee failed to provide complete contributor information for a progressively increasing number of contributors. For example, the 2000 October Quarterly Report failed to provide complete contributor information for 124 of 217, or 57%, of the itemized individual contributions disclosed. The 2000 12-Day Pre-General Report failed to provide complete contributor information for 11 of 17, or 64%, of the itemized individual contributions disclosed. The 2000 30-Day Post General Report failed to provide complete contributor information for all 308 itemized contributions. Finally, the 2000 Year-End Report failed to provide complete contributor information for 320 of 345 of the itemized individual contributions disclosed. The missing information in these reports varied, and in some cases omitted all required information other than the purported donor's name and the amount of the contribution.

On July 3, 17 and August 9, 2001, RAD sent RFAs to the Committee noting that it failed to provide required contributor information pursuant to 2 U.S.C. § 434(b) and explained the procedures for demonstrating "best efforts".²³ In response to the July 3, 2001 RFA, the

²³ When the treasurer of a political committee shows that "best efforts" have been used to obtain, maintain, and submit the information required by the Act, any reports, or records of such committee are considered in compliance with the Act. 2 U.S.C. §§ 432(i), 434(b) and 11 C.F.R. § 104.7(a). For each contribution received that exceeds \$200 and lacks required contributor information, a treasurer may establish "best efforts" by making at least (Footnote continues next page.)

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Committee, on July 18, 2001, filed an Amended 2000 October Quarterly Report which included a sample letter from the Committee to contributors who failed to include occupation and employer information. That letter reads as follows:

Thank you so much for the generous contribution to the *Giordano for U.S. Senate* Campaign. Being able to count on support from people like you is what energized this campaign. I would ask that you do one small favor for me. In accordance with federal campaign law, donors must complete a donor card. The information provided will be used to complete federal financial disclosure documents only and will not be used for any other purpose. Please complete and mail the attached information card as soon as possible. Thank you for your assistance in this very important matter.

The sample letter itself does not include the statements necessary to establish "best efforts", because it does not request the contributor's full name, mailing address, occupation and name of employer, nor does it include an accurate statement of the federal law regarding collection and identification of contributor data. *See* 11 C.F.R. § 104.7(b)(2).²⁴ While there may have been a donor card attached to the letter, no such card was provided with the Committee's submission to RAD. The Committee also failed to provide evidence that the letter and donor card had been sent within 30 days after receipt of the contribution, or that a pre-addressed return postcard or envelope was provided for the response material as required by the regulations. *See id.* The Committee did not respond at all to the August RFAI, and to date has not amended any

one request for the information after the contribution is received. 11 C.F.R. § 104.7(b)(2). Such effort shall consist of a written request for the contributor's full name, mailing address, occupation and name of employer, and include an accurate statement of the federal law regarding collection and identification of contributor data, and be made no later than 30 days after receipt of the contribution *Id.*

²⁴ For example, an acceptable statement for an authorized committee is: Federal law requires us to use our best efforts to collect and report the name, mailing address, occupation and name of employer of individuals whose contributions exceed \$200 in an election cycle. 11 C.F.R. § 104.7(b)(1)(i)(B).

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1 of its 2000 disclosure reports to show additional identifying contributor information. Based on
2 the Committee's omission of a significant percentage of required identifying information and its
3 failure to establish its best efforts to obtain such information, this Office recommends that the
4 Commission find reason to believe that the Giordano for United States Senate Committee and its
5 treasurer violated 2 U.S.C. §§ 432(i) and 434(b)(3)(A).

1. Treasurer's Responsibilities in Connection with Submitting the
Required Contributor Information and Use of "Best Efforts"

6 The treasurer of a political committee shall keep an account of the name and address of
7 any person who makes any contribution in excess of \$50, and the identification of any person
8 who makes a contribution, or contributions aggregating more than \$200 during a calendar year.
9 See 2 U.S.C. §§ 432(c)(2), (c)(3); see also 11 C.F.R. § 102.9(a). He is required to disclose this
10 information in the committee's disclosure reports. See 2 U.S.C. § 434(b)(3)(A). In performing
11 these recordkeeping duties, the treasurer or his or her authorized agent shall use his or her best
12 efforts to obtain, maintain and submit the required information and shall keep a complete record
13 of such efforts. See 2 U.S.C. § 432(i); see also 11 C.F.R. § 102.9(d). When the treasurer of a
14 political committee shows that best efforts have been used to obtain, maintain, and submit the
15 information required by this Act for the political committee, any report or any records of such
16 committee shall be considered in compliance with the Act. 2 U.S.C. § 432(i).

17 Ariola signed the disclosure reports that lacked the required contributor information, to
18 wit: the 2000 October Quarterly, the 12-Day Pre-General, the 30-Day Post-General and the
19 Year-End Reports. By signing said reports in place of the treasurer he was responsible for
20 providing the required contributor information or to use best efforts to obtain said information.
21 See 2 U.S.C. §§ 432(c)(2), (c)(3) and (i) and 434(b)(3)(A); see also 11 C.F.R. §§ 102.7,

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1 104.14(d), 102.9(a) and (d); *see also* discussion *supra* footnote 2; *see also* discussion *supra*
2 Section II.A.3. By reason of the failure to provide the required contributor information, and
3 Ariola's failure to present sufficient evidence to prove that he had used best efforts to obtain the
4 required contributor information, he failed to fulfill his responsibilities under the Act and the
5 Commission's regulations, and is personally liable for such failure. *See id.*

6 Therefore, this Office recommends that the Commission find reason to believe that
7 former deputy treasurer Thomas M. Ariola, Jr. violated 2 U.S.C. §§ 432(i) and 434(b)(3)(A) in
8 his personal capacity.

9 E. Late Filed Reports

10 The referral also included the Committee's failure to file the 2002 Mid-Year and Year-
11 End Reports.²⁵ These apparent violations are in an unusual posture. In the Administrative Fines
12 program, in AF #713, the Commission has already found reason to believe the Committee
13 violated 2 U.S.C. § 434(a) for failing to file the 2002 Mid-Year Report and, under 11 C.F.R.
14 § 111.43(a), made a preliminary determination that the civil money penalty was \$9,000. The
15 Committee did not file any response to this reason to believe finding. A final determination has
16 not been made for the 2002 Mid-Year Report. RAD referred that non-filed report to this Office
17 because this Office had already activated this matter (RR-02L-07) based on an earlier referral
18 from RAD concerning the Committee. For the reasons discussed below, this Office recommends
19 taking no further action against the Committee for its failure to file the 2002 Mid-Year Report,
20 and recommends finding reason to believe that the Committee violated 2 U.S.C. § 434(a) in

²⁵ For the communications between RAD and the Committee preceding the Administrative Fines matters, *see* Attachments to Update to RAD Referral 02L-07, dated August 7, 2003.

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1 connection with the Committee's failure to file the 2002 Year-End Report, but taking no further
2 action on this violation as well.

3 The Commission has already considered two previous Administrative Fines cases
4 concerning the Committee's failure to file reports. In AF #495, which involved the Committee's
5 failure to file its 2001 Mid-Year Report, the Commission found reason to believe that the
6 Committee violated 2 U.S.C. § 434(a) and made a preliminary determination that the civil money
7 penalty was \$8,000. The Committee's written response to the reason to believe notification
8 stated that the Committee's financial records were within the control of the United States
9 Department of Justice and the Federal Bureau of Investigation due to search warrants executed,
10 and therefore, the Committee was precluded from filing the requisite report. In light of that
11 response, the Office of Administrative Review recommended that the Commission make a final
12 determination that the Committee violated 2 U.S.C. § 434(a) but waive the civil money penalty,
13 because the Committee showed the existence of extraordinary circumstances beyond its control
14 for a duration of at least 48 hours which had prevented it from timely filing the 2001 Mid-Year
15 Report. *See* 11 C.F.R. § 111.35(b)(iii). The Commission approved this recommendation.

16 Thereafter, in AF #560, the Office of Administrative Review recommended that the
17 Commission find reason to believe that the Committee violated 2 U.S.C. § 434(a) with respect to
18 its failure to file the 2001 Year-End Report and made a preliminary determination that the civil
19 money penalty was \$8,000. The Commission split 3-3 on that recommendation, but ultimately
20 voted 6-0 to take no further action and to close the file. The three Commissioners who voted
21 against the recommendation issued a Statement of Reasons. According to their Statement:

22 [b]ecause the Committee complied with a criminal subpoena, the
23 Committee did not have the records—on paper or on a computer—
24 to file a Mid Year Report. The Committee's records for the Year

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1 End expenditures and disbursements depended on much the same
2 information, i.e., cumulated amounts during the years. Thus any
3 partial year-end report may have contained substantial inaccuracies
4 or omissions, so as to defeat the purpose of reporting.
5

6 For these reasons, these Commissioners determined that the respondents met the "extraordinary
7 circumstances" defense provided by 11 C.F.R. § 111.35, and therefore, declined to find that the
8 Committee violated the Act in AF #560.

9 The "criminal subpoena" referenced in the Statement of Reasons was the search warrant
10 provided to the Office of Administrative Review by the Committee in its response to the reason
11 to believe finding in AF #495.
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Therefore, this Office

21 recommends that the Commission take no further action regarding the reason to believe finding it

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1 has already made in AF #713 concerning the 2002 Mid-Year Report and find reason to believe
2 that the Giordano for United States Senate Committee and its treasurer, violated 2 U.S.C.
3 § 434(a), but take no further action regarding the Committee's failure to file its 2002 Year-End
4 Report.

5 **III. INVESTIGATION**

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IV. DISCUSSION OF CONCILIATION AND CIVIL PENALTIES

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V. **RECOMMENDATIONS**

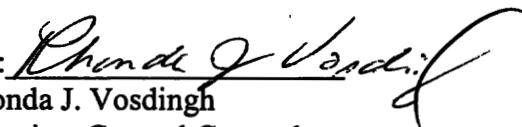
1. Open a MUR.
2. Find reason to believe that the Giordano for United States Senate Committee and its treasurer violated 2 U.S.C. §§ 441b(a), 441a(f), 432(i) and 434(b)(3)(A).
3. Take no further action against the Giordano for United States Senate Committee and its treasurer regarding the reason to believe finding the Commission made in AF #713 with respect to the 2002 Mid-Year Report.
4. Find reason to believe that Giordano for United States Senate Committee and its treasurer violated 2 U.S.C. § 434(a) regarding the 2002 Year-End Report, but take no further action.
5. Find reason to believe that former treasurer James S. Paolino violated 2 U.S.C. §§ 441b(a) and 441a(f) in his personal capacity.
6. Find reason to believe that former deputy treasurer Thomas M. Ariola, Jr. violated 2 U.S.C. §§ 441b(a), 441a(f), 432(i) and 434(b)(3)(A) in his personal capacity.
7. Find reason to believe that Philip Giordano violated 2 U.S.C. §§ 441b(a) and 441a(f).
8. Find reason to believe that Patriot National Bank violated 2 U.S.C. § 441b(a).
9. Find reason to believe that Dawn Giordano violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).
10. Find reason to believe that Salvatore Trovato violated 2 U.S.C. §§ 441a(a)(1)(A) and 441a(a)(3).
11. Find reason to believe that En-Tech Corporation violated 2 U.S.C. § 441b(a).
12. Find reason to believe that Diabes Brothers, Inc. violated 2 U.S.C. § 441b(a), send an admonishment letter, and close the file as to this respondent.
13. Find reason to believe that Diabes Brothers, Inc. II violated 2 U.S.C. § 441b(a), send an admonishment letter, and close the file as to this respondent.


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14. Find reason to believe that DiBacco Plumbing & Heating, Inc. violated 2 U.S.C. § 441b(a), send an admonishment letter, and close the file as to this respondent.
15. Find reason to believe that Northeast Cosmetology, Inc. violated 2 U.S.C. § 441b(a), send an admonishment letter, and close the file as to this respondent.
16. Find reason to believe that R.P.L. violated 2 U.S.C. § 441b(a), send an admonishment letter, and close the file as to this respondent.
17. Find reason to believe that The Red Lion, Inc. violated 2 U.S.C. § 441b(a), send an admonishment letter, and close the file as to this respondent.
18. Find reason to believe that Timothy Longino violated 2 U.S.C. § 441a(a)(1)(A).
19. Enter into conciliation with En-Tech Corporation and Timothy Longino prior to a finding of probable cause to believe.
20. Approve the appropriate Factual and Legal Analyses.
- 21.
22. Approve the attached Conciliation Agreements.
23. Approve the appropriate letters.

Lawrence H. Norton
General Counsel

5/3/04
Date

BY: 
Rhonda J. Vosdinger
Associate General Counsel
for Enforcement


Sidney Rocke
Assistant General Counsel


Christine C. Gallagher
Attorney

Attachments:

1. Conciliation Agreement for En-Tech Corporation
2. Conciliation Agreement for Timothy Longino

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